

C. Remarks

The claims are 1-5 and 12-40, with claims 1, 12, 24 and 28 being independent. Claim 4 has been amended solely as to form. No new matter has been added. Reconsideration of the claims is expressly requested.

Claims 1-5, 11-17 and 24-40 stand rejected under 35 U.S.C. § 102(a) as being allegedly anticipated by EP 1 336 635 (EP '635), or under 35 U.S.C. § 102(e) by its counterpart U.S. Patent No. 6,908,721 B2 (the '721 patent). Claims 18-23 stand rejected under 35 U.S.C. 103(a) as being allegedly obvious from EP '635 in view of U.S. Patent No. 5,618,855 (Noda).

Applicants respectfully submit that neither EP '635 nor the '721 patent is prior art to the subject application. The instant U.S. national stage application was filed on October 23, 2003 as International Application No. PCT/JP03/13532 and claims priority from Japanese Application No. 2002-310310, filed October 24, 2002.¹ EP '635 was published on August 20, 2003 and the '721 patent was filed on February 19, 2003. Thus, the filing of the Japanese priority application predates the publication date of EP '635 and the filing date of the '721 patent. Accordingly, the above rejections based on EP '635 and the '721 patent should be withdrawn.

Claims 1-5 and 12-40 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 7-9, 18, 19 and 20-27 of the '721 patent.

^{1/} To perfect the foreign priority claim under 37 C.F.R. § 1.55 as to JP 2002-310310, Applicants submit herewith a sworn English language translation of this priority application.

In response, solely in order to expedite prosecution, Applicants submit herewith a terminal disclaimer over the '721 patent.² Thus, withdrawal of the double patenting rejection is respectfully requested.

Wherefore, allowance of the claims and expedient passage of the application to issue are respectfully requested.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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FCBS_WS 2185410v1

^{2/} The \$130 fee for the recordation of the terminal disclaimer is submitted herewith via Deposit Account 50-3939. The Commissioner is authorized to charge any additional fee or credit any overpayment to Deposit Account 06-1205.